



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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DIRECTOR

July 31, 1995
AO-95-25

Jeffrey A. Gordon, M.D.
42 June Street, #3
Worcester, MA 01602

Re: Solicitation and receipt of political contributions

Dear Dr. Gordon:

This letter is in response to your July 9, 1995 request for an advisory opinion regarding M.G.L. c. 55, s. 13. You have asked several questions concerning the solicitation and receipt of political contributions by public employees.

Section 13 provides, in relevant part, that:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever. . . .

Since you are "employed for compensation" by the commonwealth, you have asked if you may become involved in the following activities without violating section 13.

1. May you host an event, whether formal or informal, where attendees are invited just to meet a political candidate and funds are not solicited at the event?

Yes. You may host an event where fundraising does not take place. You should note, however, that the prohibition in section 13 "is designed to prevent a public employee from doing in a roundabout or circuitous manner what the employee can not do directly." See AO-93-10 (discussing activities which would be considered indirect solicitation) and AO-93-28 (public employees may be guest speakers at an organization's event, if event is not used to solicit political contributions). I assume that attendees will not be required or requested to pay any amount to attend the event and that the political candidate will be advised that the candidate may not solicit or receive contributions at the event.

2. May you host and solicit funds for a charitable event sponsored fully or in part by a political committee, if all of the funds raised go to a charitable organization?

Yes. The campaign finance law does not prohibit a public employee's hosting an event sponsored fully or in part by a political committee which involves solicitation and receipt of funds for a charity, properly registered with the Attorney General's Office, Division of Public Charities, where funds received are given directly to a charity and are not deposited in the committee's account.

This office has stated that political committees may not establish and administer a scholarship fund. See AO-94-20 (concluding that a fundraising event could not be held to establish the scholarship). Here, unlike in AO-94-20, the fundraising event is intended to assist a charitable organization which is separate and distinct from the political committee and the political committee will not be involved in the on-going operations of the charity.

The office has consistently differentiated between "political" and "civic" or "humanitarian" activities. Public employees may not raise funds for political purposes. They may, however, raise funds for civic or humanitarian activities. See AO-90-11. Fundraising for a charitable organization similarly would not raise concerns under s. 13.

In addition, any expenses incurred by a political committee to sponsor the event may be paid from campaign funds only if the event enhances the political future of the candidate or the principle for which the committee was organized. See M.G.L. c. 55, s. 6. In addition, expenditures must comply with 970 CMR 2.05(2)(w) or 970 CMR 2.06(3)(a).¹

3. May you serve as a chairperson of a political committee or subcommittee organized "for purposes of fundraising and marketing," if the employee does not participate in any direct solicitations of funds and resources?

The campaign finance law does not prohibit your serving as a chairman of a political committee, if you do not become involved, directly or indirectly, in political fundraising.

¹ You should also note that any person or entity soliciting funds for a charity may be subject to the provisions of M.G.L. c. 12, ss. 8E and 8F and M.G.L. c. 68, ss. 18-20. Therefore, you or the political committee may be subject to registration and reporting requirements administered by the Attorney General's Public Charities Division and you should contact that office, at 727-2200, for more information. In addition, expenses incurred in raising funds for charitable purposes may be subject to different tax treatment than expenses incurred in raising political contributions.

Section 13 prohibits "indirect solicitation," however, which means that "what a public employee can not do directly (ask a friend for a contribution) can not be done in a 'roundabout' or indirect manner (help someone else to ask the employee's friend)." See AO-93-10 and IB-92-01. Therefore, you may not serve as a treasurer of a political committee or in any manner which leads to your becoming directly or indirectly involved in political fundraising. The office strongly advises public employees against serving as chairpersons of political committees since as chairperson of the committee it would be difficult to effectively ensure that you comply with this standard.

You may not, however, serve as a chairperson of a committee or subcommittee which is specifically organized for the purpose of political fundraising or marketing. See AO-93-10 (public employees may not participate in fundraising meetings or strategy planning).

4. May you serve as a vice-chairperson, secretary, parliamentarian, or auditor of a political committee?

Yes, if you do not become involved in the solicitation or receipt of funds. As noted above, public employees may not even indirectly solicit political contributions. Therefore, you may perform administrative tasks for a political committee but may not use that involvement to assist the committee in raising funds. See AO-93-10.

5. May you allow your name to appear on the letterhead of a political committee's letter seeking new members, if the letter does not solicit contributions or dues?

Yes. Although allowing your name to be used on the letterhead of a letter soliciting contributions or dues would be a form of indirect solicitation, see AO-84-02, the use of your name on a letter which does not solicit contributions or dues would not constitute indirect solicitation.

6. May you serve as an advisor to a candidate or political committee if you are not involved in any advice relating to fundraising?

Yes. As noted in response to your fourth question, you may be involved in a candidate's campaign provided you do not directly or indirectly receive or solicit contributions.

7. Does section 13 allow a physician who is a public employee to contribute to the political committee of another public employee who is a patient?

Yes. The second sentence of section 13 prohibits solicitation or receipt of certain contributions by political committees organized on behalf of public employees seeking elected office. In particular, a committee may not solicit/receive contributions from any person if the public employee/candidate knows or has reason to know that the person being solicited or providing a contribution "has an interest in

any particular matter" in which the public employee/candidate participates or has participated in during the course of his employment. See AO-94-14.

Section 13 does not limit your ability to make a contribution to another public employee. The recipient of your contribution cannot accept the contribution if the recipient knows or has reason to know that you have an interest in a matter the recipient participates or participated in during the course of the recipient's employment or within the scope of his or her official responsibility. The fact that the recipient is your patient does not mean that the recipient cannot accept your contribution.

This opinion has been rendered solely on the basis of representations made in your letter, the assumptions noted above, and solely in the context of M.G.L. c. 55.²

Sincerely,



Michael J. Sullivan
Director

MJS/cp

² Your questions may raise issues under the conflict-of-interest law, M.G.L. c. 268A, or other statutes or regulations not within the jurisdiction of this office.